

E-filed 11/22/06


CLIFF GARDNER
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ANTONIO LEYBA,)	C 05 01744 JF (PR)
)	
Petitioner,)	
v.)	
)	[PROPOSED] ORDER EXTENDING
D. L. RUNNELS,)	TIME WITHIN WHICH TO FILE
)	TRAVERSE TO RESPONDENT'S
Respondent.)	ANSWER TO PETITION FOR
_____)	WRIT OF HABEAS CORPUS

IT IS HEREBY ORDERED that the time within which petitioner is to file a
Traverse to respondent's Answer to Petition for Writ of Habeas Corpus will be extended
to December 22, 2006.

Dated: 11/22/06.



Jeremy Fogel
United States District Court Judge

DECLARATION OF CLIFF GARDNER

I, Cliff Gardner, declare:

1. I am an attorney licensed to practice law in the state of California.

I represent the petitioner in this case.

2. On April 26, 2005, I filed a Petition for Writ of Habeas Corpus on petitioner's behalf. At the same time, I also filed an Application to Hold Federal Habeas Petition in Abeyance Pending Exhaustion of Potentially Dispositive Claims in State Court. On May 23, 2005, the Court granted the Abeyance motion. On May 11, 2006, and after exhaustion of state remedies, I filed an Amended Petition for Writ of Habeas Corpus on petitioner's behalf. On May 25, 2006, the Court issued an Order to Show Cause.

3. On June 29, 2006, respondent requested a 60 day extension of time to file its answer. The Court granted respondent's request. On August 30, 2006, respondent requested a second 60 day extension of time to file its answer. The Court again granted respondent's request. Respondent served and filed its answer on or about October 23, 2006. Petitioner respectfully requests an extension of time until December 22, 2006, within which to file a Traverse to the state's Answer to Petitioner's Writ of Habeas

Corpus.

4. Lazuli Whitt, co-counsel in this case, contacted Deputy Attorney General Pamela K. Critchfield today. Ms. Critchfield has no objection to petitioner's request for an extension of time.

5. Since October 23, 2006, I have (1) prepared a Petition for Writ of Habeas Corpus and Memorandum of Points and Authorities In Support of Petition for Writ of Habeas Corpus in *In re Hi Quoc Truong*, No. _____, in the Court of Appeal, First Appellate District, Division One, (2) continued preparing an Appellant's Opening Brief in *People v. O'Malley*, No. _____, a capital case pending in the California Supreme Court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of November, 2006, in Oakland, California.

Cliff Gardner